

**ASSEMBLY, No. 2020**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman JON M. BRAMNICK**

**District 21 (Morris, Somerset and Union)**

**Assemblywoman BETTYLOU DECROCE**

**District 26 (Essex, Morris and Passaic)**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Morris, Somerset and Union)**

**Co-Sponsored by:**

**Assemblymen Auth and Thomson**

**SYNOPSIS**

Establishes “Commission on Statewide Affordable Housing Obligations” to determine Statewide need for low and moderate income housing.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 8/24/2020)**

1   **AN ACT** establishing the “Commission on Statewide Affordable  
2       Housing Obligations,” supplementing Title 52 of the Revised  
3       Statutes, and amending P.L.1985, c.222.

4  
5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6       *of New Jersey:*

7  
8       1. (New section) There is established the “Commission on  
9       Statewide Affordable Housing Obligations” to evaluate and  
10      determine the present and prospective need for low and moderate  
11      income housing at the Statewide level.

12      a. The commission shall consist of four legislative members, as  
13      follows: one member appointed by the Senate President, one  
14      member appointed by the Senate Minority Leader, one member  
15      appointed by the Speaker of the General Assembly, and one  
16      member appointed by the Assembly Minority Leader.

17      b. Members of the commission shall serve without  
18      compensation, but shall be reimbursed for necessary expenses  
19      incurred in the performance of their duties to the extent that funds  
20      are made available for that purpose.

21  
22      2. (New section) a. The commission shall organize as soon as  
23      practical after the appointment of its members. The commission  
24      shall elect a chairperson from among its members, and the  
25      chairperson shall select a secretary who need not be a member of  
26      the commission.

27      b. The commission shall meet at the call of its chairperson, and  
28      in the places it may deem appropriate and necessary to fulfill its  
29      duties. The commission may conduct public hearings at any place it  
30      shall designate.

31      c. The commission shall be entitled to call to its assistance and  
32      avail itself of the services of the Office of Local Planning Services  
33      in the Department of Community Affairs, as it may require.

34      d. The presence of three members shall constitute a quorum.  
35      The commission may conduct business without a quorum, but may  
36      only vote on official matters when a quorum is present.

37  
38      3. (New section) The commission shall evaluate and determine  
39      the present and prospective need for low and moderate income  
40      housing at the Statewide level. Specifically, the commission shall:

41      a. identify and access the factors influencing housing  
42      affordability that may affect the Statewide need for low and  
43      moderate income housing, which may include, but not be limited to  
44      the median household income; the median cost to own or rent a  
45      home including property taxes, utilities costs, and other expenses;

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 the supply of housing units; population; and any other factors as  
2 may be deemed appropriate;

3 b. evaluate and establish methods for calculating the present  
4 and prospective need for low and moderate income housing at the  
5 Statewide level, provided that the calculation shall account for  
6 population, residential and non-residential development, foreclosed  
7 and abandoned properties, and any other factors as may be deemed  
8 appropriate; and

9 c. determine the present and prospective need for low and  
10 moderate income housing at the Statewide level for every five-year  
11 period based on the factors and methods established by the  
12 commission.

13

14 4. (New section) The commission shall issue a report of its  
15 findings and conclusions to the Governor and to the Legislature,  
16 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), within six  
17 months of its organization and every five years thereafter.

18

19 5. Section 7 of P.L.1985, c.222 (C.52:27D-307) is amended to  
20 read as follows:

21 7. It shall be the duty of the council, seven months after the  
22 confirmation of the last member initially appointed to the council,  
23 or January 1, 1986, whichever is earlier, and from time to time  
24 thereafter to:

25 a. Determine housing regions of the State;

26 b. **【Estimate the present and prospective need for low and**  
27 **moderate income housing at the State and regional levels】** (Deleted  
28 by amendment, P.L. , c. ) (pending before the Legislature as this  
29 bill);

30 c. Adopt criteria and guidelines for:

31 (1) Municipal determination of its present and prospective fair  
32 share of the housing need in a given region which shall be  
33 computed for a 10-year period.

34 Municipal fair share shall be determined after crediting on a one-  
35 to-one basis each current unit of low and moderate income housing  
36 of adequate standard, including any such housing constructed or  
37 acquired as part of a housing program specifically intended to  
38 provide housing for low and moderate income households.  
39 Notwithstanding any other law to the contrary, a municipality shall  
40 be entitled to a credit for a unit if it demonstrates that (a) the  
41 municipality issued a certificate of occupancy for the unit, which  
42 was either newly constructed or rehabilitated between April 1, 1980  
43 and December 15, 1986; (b) a construction code official certifies,  
44 based upon a visual exterior survey, that the unit is in compliance  
45 with pertinent construction code standards with respect to structural  
46 elements, roofing, siding, doors and windows; (c) the household  
47 occupying the unit certifies in writing, under penalty of perjury, that  
48 it receives no greater income than that established pursuant to

1 section 4 of P.L.1985, c.222 (C.52:27D-304) to qualify for  
2 moderate income housing; and (d) the unit for which credit is  
3 sought is affordable to low and moderate income households under  
4 the standards established by the council at the time of filing of the  
5 petition for substantive certification. It shall be sufficient if the  
6 certification required in subparagraph (c) is signed by one member  
7 of the household. A certification submitted pursuant to this  
8 paragraph shall be reviewable only by the council or its staff and  
9 shall not be a public record;

10 Nothing in P.L.1995, c.81 shall affect the validity of substantive  
11 certification granted by the council prior to November 21, 1994, or  
12 of a judgment of compliance entered by any court of competent  
13 jurisdiction prior to that date. Additionally, any municipality that  
14 received substantive certification or a judgment of compliance prior  
15 to November 21, 1994 and filed a motion prior to November 21,  
16 1994 to amend substantive certification or a judgment of  
17 compliance for the purpose of obtaining credits, shall be entitled to  
18 a determination of its right to credits pursuant to the standards  
19 established by the Legislature prior to P.L.1995, c.81. Any  
20 municipality that filed a motion prior to November 21, 1994 for the  
21 purpose of obtaining credits, which motion was supported by the  
22 results of a completed survey performed pursuant to council rules,  
23 shall be entitled to a determination of its right to credits pursuant to  
24 the standards established by the Legislature prior to P.L.1995, c.81;

25 (2) Municipal adjustment of the present and prospective fair  
26 share based upon available vacant and developable land,  
27 infrastructure considerations or environmental or historic  
28 preservation factors and adjustments shall be made whenever:

29 (a) The preservation of historically or important architecture and  
30 sites and their environs or environmentally sensitive lands may be  
31 jeopardized,

32 (b) The established pattern of development in the community  
33 would be drastically altered,

34 (c) Adequate land for recreational, conservation or agricultural  
35 and farmland preservation purposes would not be provided,

36 (d) Adequate open space would not be provided,

37 (e) The pattern of development is contrary to the planning  
38 designations in the State Development and Redevelopment Plan  
39 prepared pursuant to sections 1 through 12 of P.L.1985, c.398  
40 (C.52:18A-196 et seq.),

41 (f) Vacant and developable land is not available in the  
42 municipality, and

43 (g) Adequate public facilities and infrastructure capacities are  
44 not available, or would result in costs prohibitive to the public if  
45 provided.

46 (3) (Deleted by amendment, P.L.1993, c.31).

47 d. Provide population and household projections for the State  
48 and housing regions;

1 e. In its discretion, place a limit, based on a percentage of  
2 existing housing stock in a municipality and any other criteria  
3 including employment opportunities which the council deems  
4 appropriate, upon the aggregate number of units which may be  
5 allocated to a municipality as its fair share of the region's present  
6 and prospective need for low and moderate income housing. No  
7 municipality shall be required to address a fair share of housing  
8 units affordable to households with a gross household income of  
9 less than 80% of the median gross household income beyond 1,000  
10 units within ten years from the grant of substantive certification,  
11 unless it is demonstrated, following objection by an interested party  
12 and an evidentiary hearing, based upon the facts and circumstances  
13 of the affected municipality that it is likely that the municipality  
14 through its zoning powers could create a realistic opportunity for  
15 more than 1,000 low and moderate income units within that ten-  
16 year period. For the purposes of this section, the facts and  
17 circumstances which shall determine whether a municipality's fair  
18 share shall exceed 1,000 units, as provided above, shall be a finding  
19 that the municipality has issued more than 5,000 certificates of  
20 occupancy for residential units in the ten-year period preceding the  
21 petition for substantive certification in connection with which the  
22 objection was filed.

23 For the purpose of crediting low and moderate income housing  
24 units in order to arrive at a determination of present and prospective  
25 fair share, as set forth in paragraph (1) of subsection c. of this  
26 section, housing units comprised in a community residence for the  
27 developmentally disabled, as defined in section 2 of P.L.1977,  
28 c.448 (C.30:11B-2), shall be fully credited pursuant to rules  
29 promulgated or to be promulgated by the council, to the extent that  
30 the units are affordable to persons of low and moderate income and  
31 are available to the general public.

32 The council, with respect to any municipality seeking substantive  
33 certification, shall require that a minimum percentage of housing  
34 units in any residential development resulting from a zoning change  
35 made to a previously non-residentially-zoned property, where the  
36 change in zoning precedes or follows the application for residential  
37 development by no more than 24 months, be reserved for occupancy  
38 by low or moderate income households, which percentage shall be  
39 determined by the council based on economic feasibility with  
40 consideration for the proposed density of development.

41 In carrying out the above duties, including, but not limited to,  
42 present and prospective need estimations the council shall give  
43 appropriate weight to pertinent research studies, government  
44 reports, decisions of other branches of government, implementation  
45 of the State Development and Redevelopment Plan prepared  
46 pursuant to sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196  
47 et seq.) and public comment. To assist the council, the State  
48 Planning Commission established under that act shall provide the

1 council annually with economic growth, development and decline  
2 projections for each housing region for the next ten years. The  
3 council shall develop procedures for periodically adjusting regional  
4 need based upon the low and moderate income housing that is  
5 provided in the region through any federal, State, municipal or  
6 private housing program.

7 No housing unit subject to the provisions of section 5 of  
8 P.L.2005, c.350 (C.52:27D-123.15) and to the provisions of the  
9 barrier free subcode adopted by the Commissioner of Community  
10 Affairs pursuant to the "State Uniform Construction Code Act,"  
11 P.L.1975, c.217 (C.52:27D-119 et seq.) shall be eligible for  
12 inclusion in the municipal fair share plan certified by the council  
13 unless the unit complies with the requirements set forth thereunder.  
14 (cf: P.L.2008, c.46, s.6)

15  
16 6. This act shall take effect immediately.  
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#### 19 STATEMENT

20  
21 This bill establishes the "Commission on Statewide Affordable  
22 Housing Obligations" to evaluate and determine the Statewide need  
23 for affordable housing.

24 The commission is to consist of four members, as follows: one  
25 member appointed by the Senate President, one member appointed  
26 by the Senate Minority Leader, one member appointed by the  
27 Speaker of the General Assembly, and one member appointed by  
28 the Assembly Minority Leader.

29 The commission is to be responsible for evaluating and  
30 determining the present and prospective need for low and moderate  
31 income housing at the Statewide level. Specifically, the  
32 commission would: (1) identify and access the factors influencing  
33 housing affordability that may affect the Statewide need for low and  
34 moderate income housing; (2) evaluate and establish methods for  
35 calculating the Statewide present and prospective need for low and  
36 moderate income housing; and (3) determine the Statewide present  
37 and prospective need for low and moderate income housing for  
38 every five-year period. The commission is to submit a report of its  
39 findings and determinations within six months of its organization,  
40 and every five years thereafter.

41 The members of the commission are to serve without  
42 compensation, but may be reimbursed for necessary expenses  
43 incurred in the performance of their duties to the extent that funds  
44 are made available. Under the bill, the commission is entitled to  
45 use the services and expertise of the Office of Local Planning  
46 Services in the Department of Community Affairs.